



GEORGETOWN UNIVERSITY LAW CENTER

ORIGINAL

RECEIVED

OCT - 1 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

FY PARTE OR LATE FILED

Lynn A. Stout  
Professor of Law

September 22, 1999

Ms. Magalie Roman Salas  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, DC 20554

Re: Ex Parte Submission  
Public Notice DA 99-1647,  
*In The Matter of Request of Lockheed Martin Corporation et al.*,  
CC Docket 92-237 / NSD File No. 98-151

Dear Ms. Salas:

Please find enclosed for filing in the above dockets an original and four copies of an ex parte submission related to the above matter. Also enclosed is a list of those individuals at the Commission who were provided with a copy of the submission.

Respectfully submitted,

Lynn A. Stout  
Professor of Law

Enclosures

No. of Copies rec'd 0+3  
List ABCDE

**Comments of Lynn A. Stout  
Professor of Law  
Georgetown University Law Center**

**Before the Federal Communications Commission, Common Carrier Bureau  
September 22, 1999**

Re: Reply Comments of Lockheed Martin Corporation and Warburg, Pincus & Co. (CC Docket No. 92-237, NSD File No. 98-151)

At the request of Mitretek Systems, I have examined the September 17, 1999, Reply Comments of Lockheed Martin Corporation and Warburg, Pincus & Co. (the Reply Comments). Neither the arguments raised in the Reply Comments, nor the remedies proposed in the Reply Comments, resolve the fundamental deficiencies detailed in my September 3, 1999 Comments (the Comments).

To reiterate, the proposed corporate entity NeuStar, Inc. cannot be deemed independent of Warburg Pincus unless independent directors make up an absolute majority of NeuStar's current and successor boards of directors. A NeuStar director cannot be deemed to be "independent" of Warburg Pincus simply because he has a good reputation and no obvious familial or business ties to Warburg Pincus. Nor is a director independent because he owes fiduciary duties to other shareholders or because his corporation is subject to other legal obligations. *Rather, a director only can be deemed independent of Warburg Pincus if NeuStar's corporate structure and procedures eliminate potential directorial conflicts of interest, including the potential conflict that arises if Warburg Pincus can control whether a director serves as a director.*<sup>1</sup>

As detailed in my original Comments, NeuStar's proposed corporate structure allows Warburg Pincus to influence not just a majority, but the whole of NeuStar's board, and in a variety of ways. The Reply Comments do not address these basic flaws in NeuStar's proposed corporate structure and procedures. Potential conflicts of interest remain, and NeuStar's board of directors cannot be deemed independent of Warburg Pincus.

A similar analysis continues to apply to the attempt to limit Warburg Pincus' ability to control the NeuStar board by way of its shareholdings through the proposed "independent" voting

---

<sup>1</sup> Under this standard it is permissible for Warburg Pincus to select who initially serves as an independent director and to set the independent directors' initial compensation. Thereafter, however, Warburg Pincus must give up control over how long the initial independent directors serve, who their successors might be, and the future compensation the initial and successor independent directors receive.

trust. Again, for the trust to be truly independent Warburg Pincus must give up control over who serves as an independent trustee and how trustees are compensated.<sup>2</sup> Although the Reply Comments address the latter problem, they fail to address the first. The trustees of the proposed voting trust accordingly would not be independent of Warburg Pincus.

In sum, the arguments raised and solutions proposed in the Reply Comments do not materially change the analysis. Again I must conclude that NeuStar Inc., would not be independent from Warburg Pincus and its affiliates.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Stout", with a long horizontal flourish extending to the right.

Lynn A Stout  
Professor of Law

September 22, 1999

---

<sup>2</sup> Again, although this standard allows Warburg Pincus to select the initial trustees and their level of compensation, thereafter Warburg Pincus must cede all control over the trustees and their successors.

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of September 1999, I caused an electronic copy of the foregoing Comment to be filed using the Commission's Electronic Comment Filing System and additional copies to be served by delivery to the Commission's mail room to the following:

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW, TW-A325  
Washington, DC 20554

Chairman William E. Kennard  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Commissioner Harold Furtchgott-Roth  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Anna Gomex  
Chief  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Blaise A. Scinto  
Deputy Division Chief  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Jared Carlson  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Tejal Mehta  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Yog Varma  
Deputy Chief  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Jeannie Grimes  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Larry Strickling  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Diane Harman  
Common Carrier Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Kyle Dixon  
Office of Commissioner Powell  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

William Bailey  
Office of Commissioner Furtchgott-Roth  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Sarah Whitesell  
Office of Commissioner Tristani  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

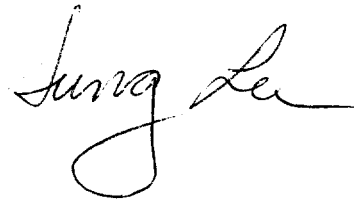
Linda Kinney  
Office of Commissioner Ness  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

International Transcription Services, Inc.  
1231 20th Street, NW  
Washington, DC 20036  
(first class mail)

Thomas Power  
Office of Commissioner Kennard  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Dorothy Atwood  
Office of Chairman Kennard  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

Rick Chessen  
Office of Commissioner Tristani  
Federal Communications Commission  
445 12th Street, SW, 8th Floor  
Washington, DC 20554

A handwritten signature in black ink, appearing to read "Jung Lee". The signature is fluid and cursive, with a large loop at the end of the last name.